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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,644	04/16/2004	Lila Shepley	22803-2	2290
7590	05/29/2007			
John S. Beulick Armstrong Teasdale LLP Suite 2600 One Metropolitan Square St. Louis, MO 63102			EXAMINER SILBERMANN, JOANNE	
			ART UNIT 3611	PAPER NUMBER
			MAIL DATE 05/29/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/826,644	SHEPLEY, LILA	
	Examiner	Art Unit	
	Joanne Silbermann	3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,7-11,14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,7-11,14,15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: no basis is provided for "a coupling mechanism" (as in claims 8 and 15).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 7-9, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolpa in view of Siebe.

4. Wolpa teaches a container identification system including fastener mechanism 52 configured to extend around an outer perimeter of container 15 (Figure 2) and tag holder 20 coupled to the fastener mechanism and including inner and outer surfaces defining cavity 32. The cavity has a circumferential length that is less than the length of the fastener mechanism and is sized to receive indicia. Identification tag 44 is sized for insertion into the cavity and is configured to receive indicia for identifying the container. The ends of the fastener mechanism are coupled together by a coupling mechanism (column 5 lines 20-23).

5. Wolpa does not teach an attachment mechanism for attaching the tag holder to the fastening mechanism, however this is well known in the art. Siebe teaches a price tag holder which includes a mechanical fastening device for securing frame 1 to a fastener mechanism (9). The first portion of the attachment mechanism is tongues 6, 7 and 8 and the second part is the sections 12 and 13 of the bent wire. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the container identification device of Wolpa to include a mechanical fastening device that secures the tag holder to the fastening mechanism to removably support a price card in a holder on an article of merchandise.

6. The attachment mechanism shown in Siebe does not extend substantially across a length of the tag holder, however this is well known in the art of fasteners. As shown by Wolpa in Figure 1 a fastening mechanism (here, element 54) may extend across the length of the tag holder. It would have been obvious to a person having ordinary skill in the art to extend the fastening mechanism shown by Siebe substantially across the length of the tag holder as shown by Wolpa to provide a more secure connection. Also, making the attachment mechanism longer would have been an obvious matter of design choice since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

7. Claims 3, 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolpa and Siebe as applied to claims 1 and 9 above, and further in view of Siegrist.

8. Wolpa and Siebe do not teach a tag that includes an erasable outer surface with a polypropylene coating. Siegrist teaches a reusable information tag (20, 30) having an erasable outer surface of a polypropylene coating (top layer 44) to provide an information tag in which information can be easily written and erased which allows the tag to be used in a variety of articles.

9. It would have been obvious to one of ordinary skill to modify the device of Wolpa to include a reusable information tag having an erasable outer surface of a polypropylene coating, as taught by Siegrist, to provide an information tag in which information can be easily written and erased which allows the tag to be repeatedly used to identify contents of the container even when the contents change.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joanne Silbermann whose telephone number is 571-272-6653. The examiner can normally be reached on M-F 5:30 - 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3611

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Joanne Silbermann
Primary Examiner
Art Unit 3611

js
23 May 2007